



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 203654

PRELIMINARY RECITALS

Pursuant to a petition filed on November 8, 2021, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services regarding FoodShare benefits (FS), a hearing was held on December 15, 2021, by telephone.

The issue for determination is whether the agency correctly issued a notice of denial of FS benefits to Petitioner effective December 1, 2021 because she failed to provide requested wage verification by November 1, 2021.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Nicole Bjork
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County and receives FS benefits.
2. Petitioner applied for FS benefits on May 1, 2020 and reported no income. Petitioner had been working at [REDACTED]. However, [REDACTED] was closed at the time of application due to the COVID-19 pandemic. Petitioner was approved to receive FS benefits based on the information submitted in her application.
3. On September 8, 2020, the agency sent a notice to Petitioner informing her that her FS benefits were being increased to \$204.00 per month. The notice further informed Petitioner that the agency did not have any employment listed for her and that it was budgeting zero income for her. The notice informed Petitioner that she was required to report if that information was incorrect. The notice further informed Petitioner that she was required to report if her gross monthly income exceeded \$1383.00 by the 10th day of the month following the month that her income exceeded that limit.
4. On August 14, 2021, a state wage discrepancy match was discovered on Petitioner's FS case, which noted that Petitioner was employed and had not reported that employment or any income.
5. On October 11, 2021, the agency sent Petitioner a wage verification request, asking her to verify her employment and income.
6. On November 2, 2021, the agency sent Petitioner a notice informing her that her FS benefits would end on December 1, 2021 because she failed to provide the requested wage verification.
7. Petitioner filed a timely appeal of the November 2, 2021 notice terminating her FS benefits for failure to verify income.
8. At hearing, the agency representative testified that after the appeal was filed, Petitioner did submit her wage verification and therefore there was no lapse in FS benefits. Petitioner remained approved for FS. However, based on her income, her FS benefits were reduced to \$20 per month. During the hearing, Petitioner testified that she didn't understand why her FS benefits were being reduced because she had been working at [REDACTED] the entire time and wasn't making any more money than before her benefits were reduced. The agency representative responded that the only reason Petitioner's benefits were over \$200 per month prior to December 1, 2021 was because the agency had no idea that Petitioner was employed and earning any income. Since the agency was unaware of Petitioner's income, it budgeted zero dollars per month in income, resulting in over \$200 in FS benefits per month. However, now that the agency is aware that Petitioner is employed and earning an income, the correct income is budgeted for Petitioner, resulting in a reduction in FS benefits.

DISCUSSION

In determining whether a participant can receive FS benefits, the agency must follow the procedure set by the federal FS regulations, which is restated in the FS Handbook. In determining FS eligibility, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). In order to determine income, the agency requests verification.

In this case, the agency was alerted in August 2021 that Petitioner had unreported employment and income. Therefore, in order to determine if Petitioner was even eligible to receive FS benefits, the agency requested verification from Petitioner on October 11, 2021 and provided a due date of November 1, 2021 to receive that verification. When the agency didn't receive the verification, it sent a notice to Petitioner on November 2, 2021 informing her that her FS benefits were ending due to lack of verification.

Petitioner filed an appeal of that termination. Therefore, that is the only issue present in this case. There is no dispute that Petitioner failed to provide verification by November 1, 2021 and therefore the agency correctly issued the termination of benefits notice on November 2, 2021.

However, after Petitioner filed her appeal, she did submit the requested verification and her benefits were then not terminated on December 1, 2021. Rather, with the updated income information, Petitioner's benefits were reduced. Petitioner disagreed with this reduction in FS benefits. However, that is not at issue in this case. If Petitioner disagreed with the reduction, she should have appealed the notice that informed her of said reduction. While that is not the issue in this case, the agency representative did inform Petitioner that the reason her FS benefits were reduced is because the agency was unaware that Petitioner was employed.

Petitioner testified that she was employed the entire time at [REDACTED]. However, she never notified the agency of this fact. When she first applied for FS in May 2020, [REDACTED] was closed due to the COVID-19 pandemic and Petitioner reported that she was unemployed and earning zero income. At some point, [REDACTED] reopened and Petitioner returned to work. However, the agency was unaware that Petitioner returned to work until August 2021 when it received a state wage discrepancy match. At that point, the agency requested verification and, after finally receiving that verification, determined that Petitioner's income amount required a reduction in FS benefits. Thus, while that issue is not before me, if it were, the agency did correctly reduce the FS amount now that Petitioner's income is correctly being imputed.

CONCLUSIONS OF LAW

The agency correctly issued a notice to Petitioner on November 2, 2021 stating that it would terminate her FS benefits on December 1, 2021 for failure to verify her income, though the benefits were not actually terminated since Petitioner did provide verification after filing her appeal.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way 5th Floor, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

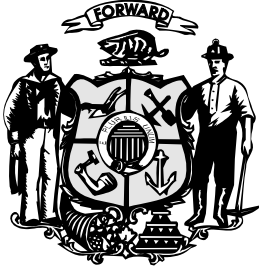
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of January, 2022

\s _____
Nicole Bjork
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2022.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability